TAXATION

Reimbursement

Agreement Between the
UNITED STATES OF AMERICA
and the PREPARATORY COMMISSION
FOR THE COMPREHENSIVE NUCLEAR-
TEST-BAN TREATY ORGANIZATION

Signed at Washington October 21, 1998

with

Annex

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION

Taxation: Reimbursement

Agreement signed at Washington October 21, 1998;
Entered into force October 21, 1998.
With annex.

TAX REIMBURSEMENT AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE PREPARATORY COMMISSION FOR THE
COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION

This Agreement is made between the Government of the United States of America (hereinafter "United States") and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (hereinafter "the Commission"), (together "the Parties").

It is the intent of the United States to assume sole responsibility pursuant to this Agreement for funding the reimbursement of taxes to officials of the Commission who are subject to United States tax law as United States citizens or permanent resident aliens.

It is the intent of the Commission to place the reimbursement of United States income tax to its officials on a sound basis.

The Parties are desirous of concluding an agreement on reimbursement to Commission officials of United States Federal, state, and local income tax and self-employment tax levied under United States law on the income they receive as compensation for official services rendered to the Commission (hereinafter "institutional income").

THE PARTIES AGREE AS FOLLOWS:

1. The Commission shall reimburse the Commission officials paid from the regular budget who are liable for and pay the United States Federal self-employment tax and United States Federal, state, and local income taxes on their Commission institutional income as defined in the annex to this Agreement, the amount of those taxes, under the terms and conditions set forth below. This Agreement does not cover officials paid from voluntary funds. An advance payment made by the Commission relating to the estimated tax liability of a staff member during a current year will be treated as reimbursement, provided that such payment is effected by an instrument payable to the Internal Revenue Service or counterpart body of the taxing state or local government.

2. Subject to the availability of appropriated funds, the United States shall reimburse the Commission for each taxpayer an amount not to exceed the tax that would be due if the specified categories of Commission income were the taxpayer's only income, taking into account any special tax

benefits available to United States taxpayers employed abroad, as well as the deductions and personal exemptions otherwise allowed.

3. Officials who seek reimbursement of taxes under this Agreement shall claim all deductions, exemptions, or exclusions to which they are entitled under applicable tax legislation and regulations.

4. For purposes of United States Federal income tax, deductions, exemptions, and adjustments to income shall be apportioned on a *pro rata* basis between taxable Commission institutional income and private income for the purposes of calculating tax reimbursement, except where deductions and exemptions relate to a specific category of income. "Taxable Commission institutional income" means the amount of Commission income subject to tax after the application of the foreign earned income exclusion.

5. Both Parties shall take all possible measures to reduce or eliminate the burden resulting from the cumulative effect of tax reimbursements being treated as taxable income.

6. The Commission officials who seek reimbursement of taxes under this Agreement are themselves responsible for complying with any income tax laws applicable to them; penalties, interest, or other charges resulting from noncompliance with such laws shall not be reimbursed by the Commission.

7. Each official claiming tax reimbursement shall determine the status defined by United States tax law under which that official files an income tax return, reimbursement being made on the basis of the status under which taxes are in fact being paid.

8. The Commission shall maintain separate accounting of the tax reimbursements covered by this Agreement. The Commission shall require each official receiving tax reimbursement to authorize the Commission to obtain confirmation from the United States Internal Revenue Service and state and local government counterpart bodies, as appropriate, of the tax liability of that official and the payment of the tax due. The Commission shall require each official to provide it with all the materials necessary to verify that the amounts claimed under this Agreement from the Commission are the same as the tax liability the official reports and the tax payments the official in fact makes.

9. Checks by the Commission for payment of estimated taxes shall be made payable to the Internal Revenue Service, or

counterpart body of the taxing state or local government, and checks for reimbursement of taxes already paid by an official shall be made payable to the official concerned.

10. Reimbursement of the United States Federal self-employment taxes shall equal the difference between the amount the official pays as a result of the official's classification as a self-employed person, less any applicable tax credit arising from the same qualification, and the amount the official would have to pay in social security (Old Age Survivors and Disability Insurance) taxes and health insurance (Medicare) taxes were the official classified as an employee.

11. The principles embodied in the present Agreement on reimbursement of Federal taxes equally constitute the basis for the reimbursement of state and local taxes.

12. The United States shall reimburse the Commission on the basis of a certification that reimbursements have been made by the Commission to United States citizens, or others who are liable to pay United States income taxes. The certification shall set forth the names and United States social security numbers of the Commission officials reimbursed, the total of Commission income against which the United States tax has been paid (that is, institutional income as defined in the annex), the amounts reimbursed to the Commission officials, the tax year for which reimbursement is made, and the year in which reimbursement is made for each category of tax specified in Article 1 and affirm that their salaries and benefits are paid from the regular budget as required by Article 1. This information shall be provided yearly to the United States before October first of each year.

13. The United States shall reimburse the Commission at the earliest possible date following receipt of the certification specified in Article 12 a sum sufficient to cover all tax reimbursements paid by the Commission with respect to preceding tax years, in accordance with this Agreement.

14. Subject to the availability of funds, the United States and the Commission may agree to a reimbursement for such reasonable and necessary expenses as the Commission may incur in connection with the implementation of the administrative procedures required to carry out the provisions of this Agreement.

15. This Agreement shall apply with regard to tax reimbursements for institutional income earned on or after March 1, 1997.

16. This Agreement shall enter into force upon signature by the Parties and shall be terminated by either Party on December 31 of the year following the year in which notice is given in writing to the other Party or when the Commission ceases to exist, whichever comes sooner. If this Agreement terminates because the Commission ceases to exist, the Parties shall determine what arrangements are appropriate to permit reimbursement of Commission officials as contemplated by this Agreement.

17. Should the United States conclude a tax reimbursement agreement with any other international organization substantially more favorable to that organization or its officials than the present Agreement, the latter shall be modified to extend to the Commission the benefit of the former, subject to the agreement of the United States, which shall not unreasonably be refused.

18. Any difficulties arising from the implementation of this Agreement shall be resolved by consultations between the Parties.

Done in duplicate, in the English language, in Washington, this 21st day of October 1998.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

John Holum

John D. Holum
Acting Under Secretary of State for Arms Control and International Security Affairs/Director, U.S. Arms Control and Disarmament Agency

FOR THE PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION:

Wolfgang Hoffmann

Wolfgang Hoffmann
Executive Secretary

Annex

A. Particulars of Institutional Income

"Institutional income," as used in this Tax Reimbursement Agreement, includes only the following particulars of compensation:

-- Basic salary
-- Post adjustment, including rental subsidies
-- Salary increases, including merit increments
-- Cost of living adjustments
-- Overtime
-- Night differential
-- Dependency allowance
-- Education grant and related travel
-- Home leave travel
-- Termination indemnity
-- Lump-sum payments for unused annual leave
-- Assignment grant
-- Removal expenses
-- Repatriation grant
-- Reimbursement of United States Federal, state, or local income tax payments and United States self-employment tax payments on institutional income.

Should the Commission approve the addition, modification, or deletion of any elements of institutional income, this annex may be modified by an exchange of letters, subject to the agreement of the United States, which shall not be unreasonably refused.